

**Law Office of
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November 21, 2011

BY ECF

United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201
Attn: Honorable Carol Bagley Amon

Re: **Lamur v. Sunnyside Community Services et al (11CV4439)(CBA)(RLM)**

Dear Judge Amon:

Please be advised that I represent Plaintiff in the above entitled proceeding. I write pursuant to your Individual Practices and in response to Defendants' November 14, 2011 letter request for a pre-motion conference. Therein, Defendants indicate their intent to move to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

Please be advised that Plaintiff will file an amended complaint as of right today, which will address many of Defendants' contentions in the aforementioned letter. However, Plaintiff believes that the companionship exemption referenced in Defendants' letter does not bar this action as a matter of law. Further, to preserve judicial resources, this Court should exercise supplemental jurisdiction over Plaintiff's state law claims.

Defendants' "certification of non-profitmaking institutions" does not bar Plaintiff's state law overtime and spread of hours claims, as Defendants contend. This is true because federal law preempts less protective state laws in the area of wages and hours. Therefore, to the extent that Defendants' purported filing of their certification would allow them to pay less than that required by federal law, it would be preempted by the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*

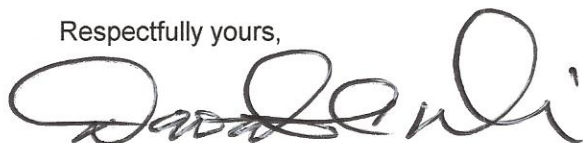
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Also, Defendants allege that Plaintiff cannot make out a claim for spread of hours under New York law because she was paid above the statutory minimum wage. However, Plaintiff alleged that half of the hours she worked were not paid by Defendants, meaning her overall pay rate was far less than the applicable minimum wage. As a result, Plaintiff's state law claims do not fail as a matter of law.

Thank you for your time and consideration.

Respectfully yours,

A handwritten signature in dark ink, appearing to read 'David C. Wims', with a large, stylized initial 'D'.

David C. Wims, Esq. (DW-6964)

cc: Hon. Roanne L. Mann (By ECF)
Stephen Zweig, Esq. (By ECF)